

California Resolves: Impact of Dispute Resolution on Child Support
Application for Section 1115 Grant
Submitted to the federal Office of Child Support Enforcement
May 2006

Table of Contents

Project abstract

Project description

Objectives and need for assistance

Results and benefits expected

Approach

Geographic location

Evaluation

Additional information

Budget and budget justification

Appendices

A: Resumes of key staff

B: Letters of support

California Resolves: Impact of Dispute Resolution on Child Support

Project Abstract

This grant is submitted by the California Department of Child Support Services (DCSS) in response to Priority 2, "Increasing Child Support Enforcement Collections/Efficiencies Through Increasing Levels of Automation or Re-Engineering Business Practices." The project, California Resolves, proposes to re-engineer California's business processes for order establishment and modification by incorporating alternative dispute resolution processes into both the child support program and the judicial system. This proposal will test whether establishing and modifying child support orders through alternative dispute resolution processes increases current support payments, speed of order establishment and modification, and parent satisfaction with outcomes, as compared to establishing and modifying orders through traditional courtroom processes.

As an alternative to establishing and modifying orders through traditional processes, the project offers parents the opportunity to participate in a collaborative negotiation conference conducted in the local child support office and in a mediation conducted by the local court family law facilitator, with the goal of reaching a stipulated agreement establishing or modifying a child support order. In the dispute resolution processes, parents can actively participate in the creation of or modification of a child support order based on current information about their family's circumstances, and they can learn about their own roles and

responsibilities concerning the child support program. Consequently, stipulated orders established or modified through dispute resolution processes should result in greater payment of current support, faster order establishment, faster order modification, and greater customer satisfaction as compared to cases with orders established or modified through traditional courtroom processes. The project tests whether these expectations for dispute resolution processes in child support actually bear fruit.

Collaborating with DCSS and the local pilot sites will be California's Administrative Office of the Courts (AOC), particularly its judicial officers and its family law facilitators, who will provide mediation services for project cases. Technical assistance for the project will be provided by the Center for the Support of Children, a private not-for-profit organization with extensive experience in the child support program across the nation and specific California child support experience. An evaluator for the project will be selected following a competitive bidding process.

Project Description

Objectives and need for assistance

Need for assistance. This project seeks to increase compliance with support orders, increase customer satisfaction, and reduce time of order establishment and modification through use of dispute resolution processes. Until now, there has been no systematic study of the impact that dispute resolution processes can have on child support performance and customer

satisfaction. In the 2002 study funded by the federal Office of Child Support Enforcement titled *Administrative and Judicial Processes for Establishing Child Support Orders* (commonly called the Lewin Report), researchers make no mention of alternative dispute resolution processes. They do, however, take note of in-person meetings. Specifically, the study reports that Colorado used negotiation conference with noncustodial parents only. In addition, Arizona, Massachusetts, and Texas – all predominately judicial states like California – held in-person meetings with parents using the court as the forum for the meeting. Among the questions recommended in the Lewin Report for further study were these two:

- Is there a relationship between the child support order establishment process and measures of program effectiveness?
- Do states with in-person meetings have better compliance with child support order payments?

The Lewin Report notes that in-person meetings allow parents to participate in the establishment of their child support order, to hear from staff about the child support process, to ask questions, and to voice concerns. Those opportunities for participation are also the hallmark of alternative dispute resolution processes, such as collaborative negotiation and mediation. Over the past 25 years, courts have increasingly referred cases to alternative dispute resolution processes, so that litigants may reach an agreement tailored to their own circumstances outside the courtroom. Family law cases in particular have seen the widespread use of mediation as the dispute resolution process for

disposing of cases without contested court hearings. Numerous studies document that parents are likely to reach an agreement about custody and parenting time in mediation, that cases are resolved more quickly, that parents are more satisfied with the outcomes of their mediated cases. AOC's own *California Family Court Service Snapshot Study* of mediation in 1991 revealed that clients rated mediation favorably whether or not they reached an agreement. For parents who reached agreements,

- 85% felt that the mediated agreement would be good for their children;
- 82% characterized their mediated agreement as fair;
- 95% felt clear about what they had agreed to; and,
- 69% were confident that their plan would work.

Other studies focus on the efficiency of mediation. Typical of these is the study of family law mediation in Colorado's 10th Judicial District done by the Center for Policy Research in 2002. Mediation resulted in full resolution in 39% of cases mediated and in partial resolution of another 55%. Cases with child support issues were more likely to stipulate with mediation than without mediation. The average days to resolve a case were significantly fewer for mediated cases than those not mediated.

Although mediation is considered effective and efficient outside the IV-D environment, it does take longer to conduct a routine family law mediation than it does for a court to hear a routine IV-D establishment or modification case. Child support staff sometimes cite the additional time required for mediation as a barrier to using mediation extensive in the high-volume world of IV-D cases. The

Lewin report suggests an alternative dispute resolution process already used in some child support programs, although in a different format – namely in-person negotiation conferences. By training child support staff in collaborative negotiation, these in-person conferences could also be an effective form for alternative dispute resolution.

For more than 20 years, California has been a leader in the use of dispute resolution processes as an alternative to the process for resolving disputes in the courtroom, particularly those related to family law. There is, indeed, such widespread recognition that dispute resolution is effective that California mandates mediation of all family law cases. CALIF. FAM. CODE 3170 *ET SEQ.* Traditional practice, however, has excluded IV-D cases from this rule. Because IV-D programs do not make extensive use of dispute resolution processes -- in California and elsewhere – **the critical question remains unanswered: does disposing of child support cases through dispute resolution processes result in greater compliance with support orders, greater customer satisfaction, and more efficient order establishment and modification?**

Judicial officers in California courts established 119,782 new child support orders statewide in federal FY 2005. Although local child support agencies throughout California may work with parents to obtain stipulated orders, procedures are not consistent statewide. Stipulations are usually obtained in the courthouse corridor right before a scheduled hearing. The press of cases awaiting hearings creates a take-it-or-leave-it negotiation atmosphere, not conducive to active participation by the parents. Moreover, many parents do not

come to court, resulting in a high rate of default orders; statewide, default orders constituted 47% of total new orders established.

Those parents who do come to court often find the process intimidating and confusing. Even when they stipulate to a child support order, the time constraints of the courtroom process often pose a barrier to parents' obtaining a thorough understanding of their responsibilities under the stipulated order.

As a consequence of the lack of parent involvement in and understanding of the child support process, payment of current support continues to be problematic. In FFY 2005, California parents paid 49.3% of current support due, although according to preliminary data from Policy Studies, Inc., the national rate is 60.0%. The performance in California counties ranked from a low of 42.9% in Los Angeles County to a high of 67.9% in Marin County.

The negative effects created by the lack of parental involvement and understanding of the child support process also plague later efforts to modify child support. Because of a negative experience with the establishment process, parents are even more reluctant to participate in review and adjustment of their child support orders. Inability to modify child support to an amount appropriate for the family adds another barrier to payment of current support.

Objectives. In pilot sites, DCSS and AOC, in collaboration with the local child support programs and local courts, will re-engineer business processes for establishing and modifying child support orders to include collaborative negotiation and mediation, as alternative process for obtaining stipulated orders,

in a way that can be replicated in other California counties and in other child support programs.

The project objectives are:

1. to increase the payment of current support by increasing stipulated child support orders reached in collaborative negotiation conferences at local child support offices and in mediation conducted through local courts
2. to increase the percentage of orders established through stipulation
3. to increase the percentage of orders modified through stipulation
4. to increase parents' satisfaction with the outcome of the process to establish and modify child support orders
5. to reduce the time from initiation of the order establishment process to the disposition of the order and to the first payment of current support
6. to reduce the time from initiation of the order modification process to the disposition of the order and to the first payment following modification
7. to develop a standard procedure for establishing and modifying orders using collaborative negotiation and mediation that can be replicated elsewhere
8. to educate child support staff about collaborative negotiation and improve their negotiation skills
9. to educate family law facilitators about the unique characteristics of IV-D cases and their impact on the mediation process

If the project is successful in achieving these objectives, California intends to implement the re-engineered process statewide. The procedures, data collection practices, training materials, and parent education materials developed for the project will be used for statewide implementation, significantly reducing the cost of replication. Because a goal of the project is to increase support collections, California anticipates the results will increase the incentive payments to the State for improved performance on that measure, providing additional funding for statewide implementation. The decision to replicate the project throughout the State will depend upon the cost-effectiveness of the re-engineered process. Specifically, if the new process costs no more than current practices and achieves the objectives set out above, there should be no additional operational costs to replicate the project statewide beyond the cost of implementation.

Results and benefits expected

Project results will impact performance in the largest child support program in the United States. Specifically, DCSS expects that the percentage of current support paid in project cases will increase, avoiding the accumulation of arrears. This promise of improvement in a key federal performance measure is the primary expected benefit from this project. It supports an important principle on which the National Strategic Plan for Child Support is based; that is, that child support should be a reliable source of income for families.

Beyond improving a statutory program performance measure in support of the National Strategic Plan, the project will affect parents, child support workers, family law facilitators who mediate child support cases, judicial officers – in the pilot sites and throughout California. These expected benefits include:

Standardized processes: Consistency is traditionally difficult in large, decentralized programs. A key benefit of California Resolves will be the creation and assessment of standard protocols for order establishment and modification using collaborative negotiation conferences and mediation, as well as standardized training for implementation of dispute resolution processes.

Close collaboration between courts and IV-D programs: Effective use of dispute resolution holds the promise of reducing time and costs of order establishment and modification. By utilizing a collaborative effort to re-engineer the establishment and modification processes through alternative dispute resolution, California Resolves will demonstrate a model for collaboration between courts and child support programs.

Greater participation by parents. Engaged and empowered parents become partners with the child support agency, rather than adversaries, as a result of the dispute resolution process. Parents who participate can contribute to the accuracy of orders by sharing their family's financial circumstances. Dispute resolution creates a sense of "ownership" in the outcome of a case, such that parents are more likely to comply with orders that they help create.

Positive partnerships between parents and the child support program: By concentrating on establishing new child support orders and modifying

inappropriate orders through dispute resolution, the agency has the opportunity to create a positive relationship with the parents. Dispute resolution can demystify the child support process and open the door for parents to welcome, rather than avoid, contact with the child support program. Consequently, they will be more likely to report later changes in the family's circumstances, which may prompt review and adjustment of their child support order, rather than allow arrears to accumulate during adverse financial times.

Reduce conflict: Both in collaborative negotiation and in mediation, parents will have an opportunity to observe and participate in less adversarial communication about the well-being of their children. In addition, they avoid the hard feelings that often follow contested hearings when they resolve their cases outside the courtroom. Less conflict and better communication between parents is unquestionably better for their children.

Efficient processes: Reducing time – and, as a consequence, cost – of establishing and modifying orders marshals scarce resources to produce results in efficient and effective ways. With child support programs facing changes in program funding in response to new federal law, implementing cost-effective alternatives to traditional processes is even more critical. Moreover, it is consistent with the accountability envisioned by the National Strategic Plan.

Approach

In at least two pilot sites, business practices of the local child support agency and the local courts will be re-engineered to provide an opportunity to agree to stipulated orders through dispute resolution processes of collaborative

negotiation and mediation. The new process will offer a hierarchy of dispute resolution strategies:

- Collaborative Negotiation: The child support agency will invite parents to participate in an in-person negotiation conference at the child support office to negotiate a stipulated order of child support and medical support.
- Mediation: If the conference does not result in a stipulated order, the family law facilitator associated with the local courts will conduct a mediation involving the agency and the parents, to resolve the dispute concerning child support and medical support.
- Court Hearing: If the mediation does not result in an agreement, the agency will pursue order establishment or modification through the traditional court process.

If the parents and the agency reach an agreement at either the negotiation conference or at the mediation, the agency will prepare a stipulated order for the parents to approve. The agency will submit the signed stipulated order to the local judicial officer for prompt approval.

To ensure that the alternative dispute resolution processes have the greatest opportunity to succeed, these activities will be part of the project:

Customer education: Prior to negotiation conferences, parents will be provided materials about the child support process and the opportunity to resolve their dispute through collaborative negotiation. The project will use customer education materials developed by the San Francisco County Child Support Program under a SIP grant, underway since 2004, as the basis for its pre-

negotiation communications with parents. Pre-mediation communications with customers will be based upon earlier AOC research concerning pre-mediation parent education. To facilitate access to this information by parents, customer education materials will be made available on the DCSS and AOC websites, as well as in print.

Specialized training for child support workers: During the negotiation conferences, child support workers, who have been trained in negotiation skills that encourage collaboration between parents and between the agency and the parents, will educate parents about the negotiation process and encourage them to share up-to-the-minute information about their family financial circumstances, including income and insurance coverage, and the needs of their children.

Supplemental training for family law facilitators: Already trained as mediators, family law facilitators will receive additional education about the unique negotiation challenges of child support and medical support in the context of the IV-D program.

Satisfaction surveys: Satisfaction with both the process and the outcome will be assessed following order establishment or modification and three months later. Not only will parents be asked for their assessments, but the child support workers who negotiated and the family law facilitators who mediated will also have the opportunity to offer their own assessments. To improve the volume of responses and make responding more convenient, participants will be able to respond to satisfaction surveys on-line, as well as in print form.

Project partners. Collaborating with DCSS and the pilot sites on this project will be the AOC and the Center for the Support of Children, a non-profit organization that will serve as project consultant. The project leader for the Center for the Support of Children will be Cynthia Bryant. Local project leaders will be identified in each pilot site. These pilot site leaders will have the following responsibilities: documenting existing processes; reviewing and commenting on proposed re-engineered processes; reviewing and commenting on proposed training materials; local data collection required for project monitoring and evaluation; monitoring implementation of the re-engineered process; and, reviewing and commenting on draft of the final report. DCSS will provide local child support agencies in the pilot sites funding support these services.

Work plan. Work on the project will follow these steps and timeframes:

Months 1-4

Establish a Working Group of representatives of DCSS, AOC, project site leaders, child support administrators from pilot sites, judicial officers and family law facilitators from pilot sites, and the project consultant.

With assistance from the project consultant and pilot site leaders, document existing establishment and modification processes and develop proposed revision of that process to include collaborative negotiation conference and mediation.

Months 5-10. These activities will be lead by the project consultant, supported by the project site leaders, and reviewed and approved by the Working Group:

Develop procedures and forms for use in the re-engineered establishment and modification processes

Develop and produce customer education materials

Develop training materials, schedule, and deliver training on re-engineered establishment and modification processes to child support workers, to judicial officers, and to family law facilitators in the pilot sites

Working with the evaluator, develop survey instruments for assessing customer satisfaction; identify data elements to be collected; identify project cases and control cases; identify processes for data collection.

Months 11-22

Implement re-engineered establishment and modification processes in pilot sites; conduct collaborative negotiation conferences and mediations on project cases

Provide coaching as needed for further training of child support workers who conduct collaborative negotiation conferences

On an on-going basis, gather data to track both qualitative and quantitative outcomes of both project and control cases

Months 23-34

Continue gathering qualitative data about participant perceptions of process and outcome in follow-up surveys for three months following order establishment or modification.

Analyze all data, including qualitative data about participant perceptions of process and outcome, and quantitative data about payment of current support,

timeliness of order establishment, order modification, and payment receipt, volume of stipulated orders.

Months 35-36

Prepare reports of project accomplishments, challenges, proposed changes to the re-engineered process, and recommendations for future replication.

Disseminate project results statewide to all county child support programs and courts, as well as across the nation.

Potential alterations in the project work plan could arise, including:

Implementation: If the re-engineering process proceeds more quickly than planned, development of procedures and forms, customer education materials, as well as training and associated materials could be moved forward. This will allow earlier implementation of the new process than the now-projected 7th month. Similarly, delays in forming the Working Group could postpone implementation of the re-engineered process.

Geographic location

The pilot sites for this project will be selected from the 58 California counties. DCSS and AOC will select the pilot sites based on these criteria:

- Need to improve performance in collection of current support
- Need to reduce the percentage of default orders established and modified
- History of innovation and collaboration between the local child support program and the local courts

- Demographic and socio-economic mix that reflects the State
- Willingness of local court officials to commit staff and resources to the project
- Availability of local Family Law Facilitators with training and experience in mediation
- Willingness to collaborate with DCSS, AOC, technical assistance contractors, and project evaluator

Evaluation

The project will assess both qualitative data about the perceptions of parents and other participants in the process and outcomes of dispute resolution and court, as well as quantitative performance data. Results from project cases will be measured against cases with similar characteristics but with orders established and modified through the traditional court processes. In each pilot site, 1600 cases will be assigned to the project, with half randomly assigned to the re-engineered processes for establishment and modification and the other half assigned to the traditional judicial processes. In addition to testing the compliance with support orders, the grant will also document the length of time for obtaining both stipulated orders and current support payments under these processes, as compared to traditional order establishment and modification processes. The project will also assess customer satisfaction with orders established and modified through dispute resolution processes against those obtained through traditional court processes.

The key research questions and the methods for developing answers to them appear in the following table:

Research Questions	Methods
Do dispute resolution processes result in a greater percentage of orders established and modified by stipulation than traditional court processes?	Comparison of orders established and modified through collaborative negotiation, through mediation, and through traditional court process.
Do parents who establish or modify child support orders in dispute resolution processes pay current support at a higher rate than parents whose orders are established or modified through traditional court processes?	Comparison of current support paid against current support due for orders established and modified through collaborative negotiation, through mediation, and through traditional court process.
Do orders established or modified through dispute resolution processes take less time to obtain than orders obtained through traditional court processes?	Compare length of time to establish orders and to modify orders through collaborative negotiation, through mediation, and through traditional court process
Is it more cost-effective to establish and modify orders through dispute resolution processes than through traditional court processes?	Compare cost of establishing and modifying orders through collaborative negotiation, through mediation, and through court processes
Do orders established or modified through dispute resolution process result in payment of current support more quickly than those obtained through traditional court processes?	Compare length of time to obtain first current support payment following order establishment or modification through collaborative negotiation, through mediation, and through traditional court process
Are parents who establish or modify orders through dispute resolution processes more satisfied with the outcome than parents who establish orders through traditional court processes?	Survey customers immediately following order establishment or modification and three months later regarding their satisfaction with the outcome of the process that resulted in an order, and compare survey results for collaborative negotiation, mediation, and traditional court processes.

The evaluator for this project will be selected following a competitive procurement process. Criteria for selection will include:

- Experience in evaluating OCSE grants
- Experience in evaluating other similar federal grant programs
- Expertise in research design and statistical analysis
- Experience in working with child support programs in California or other states
- Ability to work collaboratively with DCSS, AOC, local child support and courts staff, and with the Technical Assistance contractor
- Ability to complete the project within the budget and timely

For operational oversight, the Working Group will meet at least once each quarter to monitor progress on the project by reviewing accomplishments against the project work plan.

Additional information

Staff and position data. Key personnel appointed to the project include the individuals listed below. Resumes for all appear in Appendix A.

- Daniel Louis, Chief Counsel, Department of Child Support Services, provides overall direction for IV-D legal staff enforcing child support in California. The Chief Counsel also acts as the key liaison with the Family Court. Mr. Louis will provide overall supervision of the pilot project.
- Karen Echeverria, Deputy Director, Child Support Services Division, Department of Child Support Services, is responsible for the

establishment and execution of child support policy throughout the state. She will provide overall policy direction to the operation of the pilot programs.

- Michael Wright: As the Administrative Office of the Courts' project liaison, Mr. Wright brings extensive experience with the California child support program at both the local and state-level. Mr. Wright's experience provides him with an in depth knowledge of court programs, policies and procedures. Mr. Wright is currently the child support program manager and supervising attorney for the Administrative Office of the Courts' child support program. As such, he manages, under the leadership of the Judicial Council, the state administration of all aspects of the court's child support program. He has participated in many collaborative projects with the California Department of Child Support Services aimed at improving the effectiveness of the child support program in California.
- Cynthia Bryant. As the project leader, Ms. Bryant brings extensive child support experience to this project. A former IV-D director in Texas, she currently teaches dispute resolution and mediation at a law school, and she also consults with child support programs concerning dispute resolution as well as program leadership and management. She will be associated with the Center for Support of Children for this project.
- Barry Blackburn. As senior consultant Mr. Blackburn brings extensive experience in the design and implementation of research projects. He has

special experience in projects that are designed and administered in child support operations.

- Deb Miller. Ms Miller has extensive experience in the design of training and promotional/outreach material for child support operations. She has worked with several California counties in improving customer service and improving child support operations.

Organizational profiles. The following organizations are collaborators on this project.

- California Administrative Office of the Courts. The Administrative Office of the Courts (AOC) is the staff agency to the Judicial Council of California, the policymaking body of the state court system. Under the leadership of the Chief Justice and in accordance with the California Constitution, the law, and the mission of the judiciary, the Judicial Council is responsible for setting the direction and providing the leadership for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice. Further information is available on the agency website: <http://www.courtinfo.ca.gov/courtadmin/aoc/>
- Center for the Support of Children. The Center for the Support of Children is a Washington State chartered 501 (c) 3 organization and a sister organization to the Center for the Support of Families. The Center is composed of nationally known experts in human services programs, especially those that relate to children and families. The Center forms partnerships with staff in federal, state and local human service agencies

improve the delivery of services to children and families. The Center's work for children, youth, and families places particular emphasis on custody, child abuse child welfare, children in poverty, adolescent pregnancy and parenting, child support and juvenile justice. Within these fields, the Center delivers a variety of services, including policy analysis and formulation, strategic planning, development and implementation of program improvement plans, and training for policy and program delivery staff at the federal, state, and local level. The Center has a proven expertise in presenting information to groups and facilitating decision-making sessions.

Center staff has particular expertise in the areas of initiating and implementing operational enhancements and training human service professionals to improve job performance by using advanced program techniques, automated systems, and enhanced skills. The Center's staff and associates have worked with and for government at all levels in a variety of human service delivery organizations, including more than 30 states as well as the federal government, several national foundations, and numerous professional organizations. Overall, the Center's goals are to:

- Ensure that the needs and rights of families and children receive central consideration in the development and implementation of state policies and services.

- Increase intergovernmental and interagency cooperation and coordination in the planning and delivery of sound and cost-effective services for families.
- Inform effective policy-making at the state and local level on issues relating to families and children through organizational and fiscal analysis, program assessment and design, training, technical assistance, and materials development.

Letters of support appear in Appendix B from the following individuals and entities:

- California Child Support Directors' Association
- Administrative Office of the Courts/Judicial Council
- Local Child Support Agencies

Budget and Budget Justification

Summary

Personnel & Fringe: none

Travel: none

Equipment: none

Supplies: none

Contractual

Local Child Support Agencies for pilot sites: \$659,341

Technical Assistance: \$255,141

Evaluation: \$120,000

Other costs: website improvements: no grant funds requested

Indirect costs: none

Budget Narrative

Personnel: No personnel costs are included in this grant. Support required for grant activities will be covered with existing resources at DCSS and AOC.

Travel. One trip to the Washington, D.C., area for three people for two days is required for this grant. Travel costs for this trip will be paid with existing resources and not with grant funds. Consequently, this application does not include a request for grant funds to cover the costs of the trip. No other national trips are planned. Travel within California for project staff to participate in 12 quarterly Working Group meetings accounts for the remainder of the travel costs, and these costs will be paid with existing resources and not with grant funds.

Supplies. Costs of printing, distributing, and mailing customer education materials and surveys in approximately 1600 cases will be accomplished with existing resources and not with grant funds.

Contractual.

LCSA: Local child support agencies in each pilot site will provide local project leadership and implementation services using grant funds. In each pilot site, grant funds will support 100% of personnel costs for a local project leader, to be hired by the local child support agency using grant funds. Their responsibilities include on-going local leadership of the project, along with monitoring the collaboration between the local child support agency and the local

courts, collaboration with DCSS and AOC, and collaboration with the Technical Assistance and Evaluation contractors.

Technical Assistance: Technical Assistance costs are based 1176 hours for three staff and travel to California on 14 occasions, for services including: project management; reviewing documentation of existing procedures; documenting proposed re-engineered procedures; providing and supporting training in dispute resolution processes; collaborating with the evaluator on design of the research project, on the data collection process, and on analysis of project data; collaborating with DCSS, AOC, and pilot sites; quarterly Working Group meetings; drafting interim and final reports.

Evaluation. The budget for evaluation reflects an estimate of costs to complete the research design, consult on data collection and development of survey instruments, compile and analyze data, participate in completion of interim and final reports, and on-going consultation with DCSS, AOC, the Working Group, and the Technical Assistance contractors. The estimate is comparable to other evaluations of similar scope performed in California. This contract will be award through competitive bid.

Other: Website improvements on the DCSS and AOC websites will be accomplished using existing resources, and not grant funds are requested for this purpose.

Appendices

- A. Resumes of key staff**
- B. Letters of support**